

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE PROVISION OF) ADMINISTRATIVE
ENHANCED SERVICES IN KENTUCKY) CASE NO. 338

O R D E R

On August 17, 1992, Cincinnati Bell Directory, Inc. ("CBD") filed a response to and request for clarification of the Commission's July 14, 1992 Order which required all telephone utilities currently providing enhanced services to file tariffs for those enhanced services or file a petition requesting exemption from regulation pursuant to KRS 278.512 and 278.514.

CBD submits that it should not be required to file a tariff relating to its one-way paging services because the Commission determined that one way paging services are not subject to the jurisdiction of the Commission by Order dated May 12, 1988.¹

CBD also submits that it should not be required to file a tariff or petition for its voice messaging services because the Federal Communications Commission ("FCC") has preempted state regulation of such services.²

¹ Administrative Case No. 322, Commission Jurisdiction Over One-Way Radio Paging Services.

² Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation, 7 FCC Rcd 1619 (1992). Here, CBD cites a narrow decision that relies on more generic ruling of the FCC and, again, CBD's interpretation is debatable.

In response to CBD's assertion that it should not be required to file a tariff or request exemption pursuant to KRS 278.512 and 278.514, the Commission has determined that one way paging services are not subject to the jurisdiction of the Commission by Order dated May 12, 1988.

In response to CBD's assertion that protocol conversion services are unregulated, the Commission, in its August 1, 1991 Order in this proceeding found, prima facie, that the provision of enhanced services is within the jurisdiction of KRS Chapter 278. The Commission further finds that protocol conversion services are enhanced services as defined by the FCC in 4 CFR Section 64.702(a) to include "[s]ervices offered over common carrier transmission facilities . . . which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information." Clearly, protocol conversion falls within this definition. Moreover, in order for the Commission's statutory mandate to be preempted by federal authority, CBD must show that its protocol conversion services cannot be jurisdictionally separated.

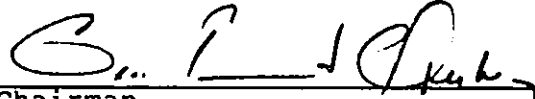
IT IS THEREFORE ORDERED that:


1. CBD is not required to file a tariff or petition pursuant to KRS 278.512 and 278.514 relating to its provision of one way paging services.

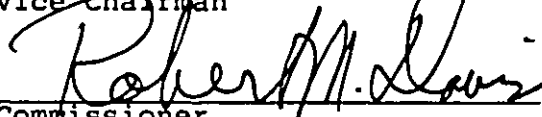
2. In reference to its voice messaging services, CBD shall within 30 days of the date of this Order comply with the July 14, 1992 Order of the Commission which required all telecommunications utilities providing enhanced services in the Commonwealth to file a tariff or file a petition pursuant to KRS 278.512 and 278.514 setting forth the reason why the service should be exempt from regulation or subject to alternative regulation.

Done at Frankfort, Kentucky, this 9th day of October, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director